

net operating loss. Thus, the first \$15,000 of reduction in taxable income is considered as from the portion of the 1970 net operating loss carryforward not attributable to the excess tax preferences described in section 56(b)(1)(B) and the remaining \$35,000 of reduction in taxable income is considered attributable to such excess. A's 1972 minimum tax attributable to items of tax preference arising in 1970 is, therefore, \$3,500 (10 percent times \$35,000).

(c) In 1973, A has \$80,000 of taxable income before the deduction for the 1970 net operating loss. The remaining \$25,000 of the 1970 net operating loss carryforward is used to reduce taxable income in 1973. Thus, A's 1973 minimum tax liability attributable to items of tax preference arising in 1970 is \$2,500 (10 percent times \$25,000).

*Example 3.* In 1971, M Corporation, a Western Hemisphere trade corporation (as defined in sec. 921), reporting on a calendar year basis has \$20,000 of taxable income after all deductions including the Western Hemisphere trade deduction allowable under section 922 in the amount of \$30,000. In 1970, M Corporation had a net operating loss of \$100,000 all of which was available for carryover to 1971 and \$60,000 of which was attributable to excess tax preferences. In computing the amount of the 1970 net operating loss carried over to 1972 pursuant to section 172(b), the 1971 Western Hemisphere trade corporation deduction is not taken into account. Thus, M Corporation's recomputed income under section 172(b) is \$50,000 (\$20,000 taxable income plus \$30,000 Western Hemisphere trade corporation deduction). Pursuant to paragraph (c)(1) of this section, \$20,000 of the \$40,000 portion of the 1970 net operating loss not attributable to excess tax preferences is considered to reduce taxable income in 1971 and \$30,000 of the \$60,000 portion of the 1970 net operating loss attributable to excess tax preferences is considered reduced pursuant to section 172(b)(2). Thus, M Corporation has no 1971 minimum tax attributable to items of tax preference arising in 1970. Of the \$50,000 remaining of the 1970 net operating loss, \$30,000 is attributable to excess tax preference.

*Example 4.* In 1972, A, a calendar year taxpayer who is a single individual, has \$25,000 of taxable income resulting from \$50,000 of net long-term capital gains. In 1971, A had a net operating loss of \$100,000 all of which is available to carryover to 1972 and \$60,000 of which is attributable to excess tax preferences. By application of section 172(b) only \$50,000 of the 1971 net operating loss is carried over to 1973. Pursuant to paragraph (c) of this section, \$25,000 of the \$40,000 portion of the 1971 net operating loss not attributable to excess tax preferences is considered to reduce taxable income in 1972. Of the

\$50,000 remaining of the 1971 net operating loss, \$15,000 is not attributable to excess tax preferences and \$35,000 is attributable to excess tax preferences. Thus, the \$25,000 section 1202 deduction, in effect, reduces the portion of the 1971 net operating loss attributable to excess tax preferences. Because a net operating loss carryover is reduced to the extent of any section 1202 deduction, section 1202 deductions do not normally produce a tax benefit in such circumstances and, pursuant to § 1.57-4, would not be treated as items of tax preference. However, in this case, to the extent the portion of the 1971 net operating loss carryover attributable to excess tax preferences is reduced by reason of the section 1202 deduction, such deduction does result in a tax benefit to the taxpayer and is, therefore, treated as an item of tax preference in 1971. See § 1.57-4(b)(2).

[T.D. 7564, 43 FR 40467, Sept. 12, 1978. Redesignated by T.D. 8138, 52 FR 15309, Apr. 28, 1987]

#### § 1.56A-3 Effective date.

(a) *In general.* The minimum tax is effective for taxable years ending after December 31, 1969.

(b) *Taxable year beginning in 1969 and ending in 1970.* In the case of a taxable year beginning in 1969 and ending in 1970, the amount of the minimum tax shall be an amount equal to the amount determined under section 56 multiplied by the following fraction:

$$\frac{\text{Number of days in the taxable year ending after December 31, 1969} + \text{Number of days in the entire taxable year.}}{\text{Number of days in the taxable year ending after December 31, 1969} + \text{Number of days in the entire taxable year.}}$$

Where, by reason of section 56(b) and § 1.56A-2, tax initially imposed in a 1969-70 fiscal year is deferred until a subsequent taxable year or years, the amount of such tax liability in any subsequent taxable year is determined by application of the above fraction. Section 21, relating to computation of tax in years where there is a change in rates, is not applicable to the initial imposition of the minimum tax for tax preferences. The applications of this paragraph may be illustrated by the following example:

*Example.* The taxpayer uses a June 30 fiscal year. For fiscal 1969-1970 the taxpayer has \$180,000 of items of tax preference and a \$50,000 net operating loss. In fiscal year 1970-1971, the taxpayer uses the full net operating loss carryover from 1969-1970 to reduce his taxable income by \$50,000. Thus, without regard to the proration rules applicable under

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this section, the taxpayer's minimum tax liability for items of tax preference arising in 1969-1970 is \$15,000, i.e., 10 percent $\times$ (\$180,000-\$30,000), of which \$5,000, i.e., 10 percent $\times$ \$50,000, is deferred until 1970-1971 under the principles of section 56(b) and section 1.56A-2. By application of the above formula the taxpayer's actual minimum tax liability is \$4,958.90 in 1969-1970 and \$2,479.45 in 1970-1971 determined as follows:

1969-1970:  $181/365 \times \$10,000$   
1970-1971:  $181/365 \times \$5,000$

[T.D. 7564, 43 FR 40468, Sept. 12, 1978. Redesignated and amended by T.D. 8138, 52 FR 15309, Apr. 28, 1987]

#### § 1.56A-4 Certain taxpayers.

For application of the minimum tax in the case of estates and trusts, electing small business corporations, common trust funds, regulated investment companies, real estate investment trusts, and partnerships, see §§ 1.58-2 through 1.58-6.

[T.D. 7564, 43 FR 40468, Sept. 12, 1978. Redesignated by T.D. 8138, 52 FR 15309, Apr. 28, 1987]

#### § 1.56A-5 Tax carryovers.

(a) *In general.* Section 56(c) provides a 7-year carryover of the excess of the taxes described in paragraph (1) of such section imposed during the taxable year over the items of tax preference described in paragraph (2) of such section for such taxable year for the purpose of reducing the amount subject to tax under section 56(a) in subsequent taxable years.

(b) *Computation of amount of carryover.* The amount of tax carryover described in section 56(c) is the excess (if any) of—

(1) The taxes imposed for the taxable year under chapter 1 other than taxes imposed by section 56 (relating to minimum tax for tax preferences), by section 531 (relating to accumulated earnings tax), or by section 541 (relating to personal holding company tax), reduced by the sum of the credits allowable under—

(i) Section 33 (relating to taxes of foreign countries and possessions of the United States),

(ii) Section 37 (relating to retirement income),

(iii) Section 38 (relating to investment credit),

(iv) Section 40 (relating to expenses of work incentive programs), and

(v) Section 41 (relating to contributions to candidates for public office), over

(2) The sum of the taxpayer's items of tax preference for such year in excess of the taxpayer's minimum tax exemption (determined under § 1.58-1) for such year.

For purposes of section 56(c) and this section, taxes imposed in a taxable year ending on or before December 31, 1969, are not included in the taxes described in subparagraph (1) of this paragraph. In addition, the rules of paragraph (c) of § 1.56A-1 are applicable in determining the taxable year for which taxes are imposed under chapter 1 for purposes of paragraph (a)(1) of this section.

(c) *Operation of carryover.* Tax carryovers attributable to the taxable year shall be carried over to each of the 7 succeeding taxable years as follows:

(1) To the first such succeeding taxable year to reduce in the manner described in paragraph (d) of this section the amount subject to tax under section 56(a) for such first succeeding taxable year and

(2) To the extent such amount is not used as a reduction in the amount subject to tax under section 56(a) for such taxable year, such amount (if any) is carried over to each of the succeeding 6 taxable years but only to the extent such amount is not used to reduce the amount subject to tax under section 56(a) in taxable years intervening between the taxable year to which such amount is attributable and the taxable year to which such amount may otherwise be carried over.

(d) *Priority of reduction.* Where tax carryovers attributable to two or more taxable years are carried over to a subsequent taxable year such amounts attributable to the earliest taxable year shall be used to reduce the amount subject to tax under section 56(a) for such subsequent taxable year before any such amounts attributable to a later taxable year.

(e) *Special rules—(1) Periods of less than 12 months.* A fractional part of a year which is a taxable year under section 441(b) or 7701(a)(23) is a taxable year for purposes of section 56(c) and this section.